

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLAWAY GOLF COMPANY,

Plaintiff,

v.

ACUSHNET COMPANY,

Defendant.

C.A. No. 07-367 (SLR)

STIPULATION REGARDING MANUFACTURING CAPACITY

WHEREAS, Plaintiff Callaway Golf and Defendant Acushnet have both asserted claims of patent infringement;

WHEREAS, Plaintiff Callaway Golf and Defendant Acushnet both seek lost profits damages;

WHEREAS, a party may only recover lost profits damages to the extent that it is shown to have had the manufacturing capacity to make any sales that were lost due to the alleged infringement;

WHEREAS, for the purposes of this lawsuit, neither party disputes that the other party would have had the manufacturing capacity to make any sales lost due to the alleged infringement by the other party;

NOW THEREFORE, it is stipulated by the parties that:

1. Callaway Golf had and has the manufacturing capacity to meet the demand for any sales lost due to the acts of infringement that Callaway Golf has alleged against Acushnet in this litigation;

2. Acushnet had and has the manufacturing capacity to meet the demand for any sales lost due to the acts of infringement that Acushnet has alleged against Callaway Golf in this litigation;

3. Neither party shall offer evidence or assert in this litigation that the party asserting infringement did not or does not have the manufacturing capacity to meet the demand for any sales lost due to the alleged infringement; and

4. Neither party shall engage in any discovery in this litigation regarding manufacturing capacity.

Dated: January 18, 2008

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